

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

Case # 18-CR-6161-FPG

DECISION AND ORDER

JEFFREY C. WEST,

Defendant.

INTRODUCTION

On November 28, 2018, Defendant Jeffrey C. West pled guilty to Count 1 of an information alleging that he possessed heroin with the intent to distribute it. ECF Nos. 24-26, 28. Defendant was then sentenced to one hundred and eighty-eight months of incarceration on February 28, 2019, and judgment was entered on March 6, 2019.

Defendant filed a notice of appeal as to the judgment on March 8, 2019. Currently before the Court is Defendant's motion to appeal *in forma pauperis*. For the following reasons, Defendant's motion is DENIED without prejudice.

DISCUSSION

Motions to appeal *in forma pauperis* are governed by 28 U.S.C. § 1915 and Federal Rule of Appellate Procedure 24. Under Rule 24(a)(1) and (3), unless a party was previously permitted to proceed *in forma pauperis* (IFP) before a district court, the party must move to appeal IFP before the district court. The procedure to move to appeal IFP is described in both Rule 24(a)(1) and § 1915(a)(1): A party must attach an affidavit demonstrating his inability to pay or give security for fees and costs, claiming an entitlement to redress, and, at issue here, stating the issues the party

intends to present on appeal. *See also Concepcion v. United States*, 568 F. Supp. 766, 772 (S.D.N.Y. 1982) (“The Court declines to grant leave to appeal [IFP], or to grant a certificate of probable cause to appeal because the claims lack merit and present no novel issue.”).

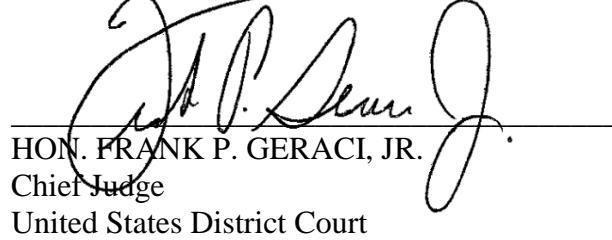
Here, Defendant has submitted an affidavit showing his inability to pay fees and costs and claiming entitlement to review by the United States Court of Appeals for the Second Circuit, but he has not explained the issues he intends to present on appeal. Consequently, the Court denies Defendant’s motion to appeal IFP. Defendant may refile the motion with the required showings.

CONCLUSION

For the foregoing reasons, Defendant’s Motion to Proceed IFP on Appeal, ECF No. 40, is DENIED without prejudice.

IT IS SO ORDERED.

Dated: July 25, 2019
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court